

RULES AND REGULATIONS

obtain a release of an existing lien on land needed for the site of a proposed project. This action is necessary to enable FmHA to obtain a first lien on a project being financed with loan funds.

EFFECTIVE DATE: August 11, 1977. Comments must be received on or before September 12, 1977.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Paul R. Conn, 202-447-7207.

SUPPLEMENTAL INFORMATION: Section 1822.86(b) (8) of Subpart D, Part 1822, Title 7, Code of Federal Regulations (40 FR 4278) is amended. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment is not published for proposed rulemaking since the change is needed to allow FmHA to finance needed housing projects now pending and any delay would be contrary to the public interest.

As amended, § 1822.86, paragraph (b) (8) reads as follows:

§ 1822.86 Limitations.

(b) *Limitations on use of loan funds.* Loans will not be made for:

(8) Refinancing debts of the applicant except:

(i) As authorized in § 1822.94 (a) or
(ii) When a nonprofit organization or a State or local public agency, applicant already owns land on which a lien has existed for more than 5 years before the date of the application, a subordination or release cannot be obtained, and the applicant does not have the financial resources necessary to obtain a release of the existing lien(s). In this situation, loan funds may be used to obtain a release of the land needed for the site of the proposed project. The amount of funds used for such purposes shall be limited to the amount necessary to obtain the release and, in any case, shall not exceed the "as is" value of the land as determined in accordance with FmHA Instruction 422.3 which is available in any FmHA office.

(42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under

Executive Order 11821 and OMB Circular A-107.

Dated: July 26, 1977.

GORDON CAVANAUGH,
Administrator, Farmers
Home Administration.

[FR Doc. 77-23237 Filed 8-10-77; 8:45 am]

SUBCHAPTER R—BUSINESS SERVICES PART 2024—PROPERTY AND SUPPLY

Subpart A—Procurement, Sales, and Leasing Authority

REVISION

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration is revising its regulation pertaining to delegations of authority for procurement contracting, purchasing, sales and leasing, space acquisition and assignment. This revision is intended to simplify the existing procurement procedure and to increase procurement authority for certain positions because of the rise in the cost of operations.

EFFECTIVE DATE: Effective on August 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Albert J. Geiger, 202-447-5777.

SUPPLEMENTARY INFORMATION: Subpart A of Part 2024, Chapter XVIII of Title 7, Code of Federal Regulations (41 FR 13933) is amended. The purpose of this amendment is to update and simplify the regulation. Specifically: In Exhibit A under the National Office, the position of Deputy Director, Business Services Division, is added including dollar amount under the Agriculture Procurement Regulations authority to purchase with power to delegate again; the positions of Administrative Officer, District Director, and County Supervisor are added under paragraph 6. In Exhibit B under the National Office, the position of Deputy Director, Business Services Division, is added, including dollar amount, some position titles are changed, and in the Finance Office, increases in dollar amounts are made under services and supplies in two instances. In Exhibit C, under the National Office, the position of Deputy Director, Business Services Division, is added, and one position title is changed in the State Office. In Exhibit D under the National Office, the position of Deputy Director, Business Services Division, is added including dollar amount, and one position title is changed. Editorial changes are included. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking inasmuch as the Subpart in-

volves only internal departmental regulations, therefore, notice and public procedure thereon are unnecessary. Accordingly, exhibits A through D of Subpart A of Part 2024 as revised, are set forth below.

EXHIBIT A—DELEGATION OF PURCHASING AUTHORITY (SMALL PURCHASES)

Using Agriculture Procurement Regulations 4-3.002-50, authority to purchase with power to delegate again is given to these positions:

National Office	Amount not to exceed
Deputy Administrator, Financial and Administrative Operations	\$10,000
Director, Business Services Division	10,000
Deputy Director, Business Services Division	10,000

Authority to purchase without power to redelegate is given to:

1. National Office:	
Chief, Property and Procurement Management Branch	10,000
Property and Space Management Specialist	10,000
Contracting Specialist	10,000
Procurement and Supply Specialist	10,000
Director, Property Management Staff	10,000
Purchasing Agent	5,000

2. Finance Office:	
Chief, Business Services Branch	10,000
Assistant Chief, Business Services Branch	10,000
Head, Space Management Section	10,000
Head, Property Management Section	10,000

3. State Office—Puerto Rico:	
State Director	2,500
Administrative Officer	2,500

4. National Training Center:	
Resident Manager, For emergency supplies and services for ongoing training	75
For Transportation Service	250

5. State Director, Allowances for supplies and equipment for information programs	1
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6. State Director, Administrative Officer, District Director, County Supervisor, For emergency supplies and services not available through St. Louis, Missouri, office	25
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7. State Director, District Director, County Supervisor:	
Services for maintenance, management or repair of "real" or "acquired" property	2,000

Repair and replacement of parts and cleaning of electric typewriters and office machines	200
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8. State Director Property Management Specialist Chief, Property Management, Services for maintenance, management and sale of acquired real property	5,000
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9. Property Management Specialist Chief, Property Management, Services for maintenance management, repair, and sale of acquired real property	10,000
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¹ Yearly \$100 plus \$2.50 for each fulltime county office.

² Maximum depending on age. (See guidelines available in any FmHA office for limitations on age of equipment.)

³ Only for employees who have completed the Property Management Training Course.

⁴ Only for employees who have completed the prescribed construction contracting courses and procedures.

This delegation replaces all others and is valid until changed or canceled.

People in these positions, or those acting for them, can use this authority.

Use Federal Procurement Regulations, Subpart 1-3.6; Agriculture Procurement

Regulations, Subpart 4-3.6; and Agency regulations that apply in using this authority.

Authority to purchase will not be used for contracting of construction except for Items 7 and 9 above.

EXHIBIT B.—Delegation of procurement contracting authority

[Using AGPR 4-1.404, the Office of Operations has delegated procurement contracting authority, without powers to redelegate to people in these positions.]

Amount not to Exceed—		National office
Construction	Services and supplies	
\$100,000	\$500,000	Director, Business Services Division.
100,000	500,000	Deputy Director, Business Services Division.
100,000	500,000	Chief, Property and Procurement Management Branch.
100,000	500,000	Contract Specialist.
100,000	100,000	Director, Property Management Staff.
25,000	25,000	Property and Space Management Specialist.
25,000	25,000	Procurement and Supply Specialist.
		<i>Finance office</i>
25,000	50,000	Chief, Business Services Branch.
25,000	50,000	Assistant Chief, Business Services Branch.
	20,000	Head, Space Management Section.
	20,000	Head, Property Management Section.

NOTE.—Use Federal Procurement Regulations, Agriculture Procurement Regulations, Federal Property Management Regulations, Agriculture Property Management Regulations, and Agency regulations that apply in using this authority.

EXHIBIT C—DELEGATION OF SALES AUTHORITY

A. Using GSA and Departmental authorities, sale of surplus personal property is delegated without authority to redelegate to:

National Office: Director, Business Services Division; Deputy Director, Business Services Division; Chief, Property & Procurement Mgmt. Branch.

Finance Office: Chief, Business Services Branch; Asst. Chief, Business Services Branch; Head, Property Management Section.

B. Using guidelines available in any FmHA office, contracts and agreements to sell real property is delegated without authority to redelegate to:

National Office: Director, Property Management Staff; Director, Business Services Division; Deputy Director, Business Services Division.

State Office:
State Director.....\$10,000
Property Management Specification.....10,000
County Office:
County Supervisor.....2,000

¹ This limit applies to the fee paid for a single property sold. Blanket listing agreements can be made by any of the above.

EXHIBIT D—AUTHORITY TO LEASE SPACE (REAL PROPERTY)

	Amounts not to exceed
National Office, Washington, D.C.:	
Director, Business Services Division	\$500,000
Deputy Director, Business Services Division	500,000
Chief, Property & Procurement Mgmt. Branch	500,000
Property & Space Management Specialist	25,000
Finance Office:	
Chief, Business Services Branch	25,000
Assistant Chief, Business Services Branch	25,000
Head, Space Management Section	10,000
Head, Property Management Section	10,000

All delegations are limited to a one year firm term lease with option to renew for four additional years in areas not controlled by GSA or subject to FPMR Part 101-17.

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: July 27, 1977.

GORDON CAVANAUGH,
Administrator, Farmers
Home Administration.

[FR Doc.77-23236 Filed 8-10-77; 8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-2895]

PART 13—PROHIBITED TRADE PRACTICES AND AFFIRMATIVE CORRECTIVE ACTIONS

Olin Ski Company, Inc., et al.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a Middletown, Conn. manufacturer and distributor of ski boots and other ski industry items to cease establishing, maintaining, and enforcing price maintenance agreements; requiring such agreements as a precondition to dealing; soliciting reports of recalcitrant distributors and terminating those dealerships; using serial numbers as a means of tracing products sold to unauthorized outlets; and failing to honor warranties for products sold by such establishments. Further, the order requires the respondents to maintain prescribed files for a five-year period; and prohibits them from disseminating, for two years, all materials suggesting resale prices.

DATES: Complaint and order issued, July 19, 1977.¹

FOR FURTHER INFORMATION CONTACT:

William M. Gibson, Director, Boston Regional Office, Federal Trade Commission, 150 Causeway St., Rm. 1301, Boston, Mass. 02114 (617-223-8621).

SUPPLEMENTARY INFORMATION: On Monday, May 16, 1977, there was published in the FEDERAL REGISTER (42 FR 24753) a proposed consent agreement with analysis in the Matter of Olin Ski Company, Inc., et al., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions as codified under 16 CFR, are as follows:

Subpart—Coercing and Intimidating: § 13.350 Customers or prospective customers; § 13.358 Distributors. Subpart—Combining or Conspiring: § 13.395 To control marketing practices and conditions; § 13.425 To enforce or bring about resale price maintenance; § 13.430 To enhance, maintain or unify prices; § 13.450 To limit distribution or dealing to regular, established or acceptable channels or classes; § 13.497 To terminate, or threaten to terminate contracts, dealings, franchises, etc. Subpart—Controlling, Unfairly, Seller-Suppliers: § 13.530 Controlling, unfairly, seller-suppliers. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-45 Maintain records. Subpart—Cutting Off Supplies or Service: § 13.610 Cutting off supplies or service; § 13.655 Threatening disciplinary action or otherwise. Subpart—Delaying or Withholding Corrections, Adjustments or Action Owed: § 13.675 Delaying or withholding corrections, adjustments or action owed. Subpart—Maintaining Resale Prices: § 13.1130 Contracts and agreements; § 13.1140 Cutting off supplies; § 13.1145 Discrimination; 13.1145-5 Against price cutters; § 13.1150 Penalties; § 13.1155 Price schedules and announcements; § 13.1160 Refusal to sell; § 13.1165 Systems of espionage; 13.1165-50 Identifying marks; 13.1165-80 Requiring information of price cutting.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45).)

CAROL M. THOMAS,
Secretary.

[FR Doc.77-23129 Filed 8-10-77; 8:45 am]

¹ Copies of the Complaint, and the Decision and Order filed with the original document.

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION AND IMPORTATION OF WILDLIFE AND PLANTS

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Determination That Seven California Channel Island Animals and Plants Are Either Endangered Species or Threatened Species

AGENCY: U.S. Fish and Wildlife Service.

ACTION: Final rulemaking.

SUMMARY: The Director, U.S. Fish and Wildlife Service (hereinafter the Director and the Service, respectively) hereby issues a rulemaking pursuant to Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1531-1543; 87 Stat. 884; hereinafter the Act) which determines the San Clemente loggerhead shrike (*Lanius ludovicianus mearnsi*), San Clemente broom (*Lotus scoparius* (Nutt.) Otley ssp. *traskiae* (Abrams) Raven), San Clemente bushmallow (*Malacothamnus elementinus* (M.&J.) Kearns), San Clemente Island larkspur (*Delphinium kin-kense* Munz), and the San Clemente Island indian paintbrush (*Castilleja grisea* Dunkle) to be Endangered species, and which determines the island night lizard (*Klauberina riversiana*), and the San Clemente sage sparrow (*Amphispiza belli clementae*) to be Threatened species. The above are the first plants to be added to the U.S. List of Endangered and Threatened Wildlife and Plants.

DATES: This rulemaking is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531-1543; 87 Stat. 884). The amendments will become effective on September 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director, Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On June 1, 1976, the Service published a proposed rulemaking in the FEDERAL REGISTER (41 FR 22073-22075) advising that sufficient evidence was on file to support a determination that seven animals endemic to San Clemente Island, California, were Endangered species as provided for by the Act, and on June 16, 1976, the Service published another proposed rulemaking in the FEDERAL REGISTER (41 FR 24523-24572) advising that sufficient evidence was on file to support a determination that more than 1700 United States plants were Endangered species as provided for by the Act. The four plants determined herein were among those proposed. These proposals summarized the factors thought to be contributing to the likelihood that these

species could become extinct or become Endangered in the foreseeable future; specified the prohibitions which would be applicable if such determinations were made; and solicited comments, suggestions, objections and factual information from any interested person.

Section 4(b)(1)(A) of the Act requires that the Governor of each State, within which a resident species of wildlife is known to occur, be notified and be provided 90 days to comment before any such species is determined to be a Threatened species or an Endangered species. Accordingly, letters were sent to Governor Brown of California on July 1, 1976 (re: 41 FR 24524-24572) and on July 2, 1976 (re: 41 FR 22073-22075) notifying him of the two subject proposed rulemakings. On July 1 and 2, 1976, memoranda were sent to the Service Directorate and affected Regional personnel, and letters were sent to other interested parties including scientists, interested organizations and environmental groups.

SUMMARY OF COMMENTS AND RECOMMENDATIONS

Section 4(b)(1)(C) of the Act requires that a "summary of all comments and recommendations received" be published in the FEDERAL REGISTER prior to adding any species to the List of Endangered and Threatened Wildlife.

In the June 1 and June 16, 1976, FEDERAL REGISTER proposed rulemakings (41 FR 22073-22075, 41 FR 24523-24572) and the associated news releases, all interested parties were invited to submit factual reports or information which might contribute to the formulation of a final rulemaking.

The specified 60-day public comment periods were to terminate on August 16, 1976 (for the 1700 plants) and on August 2, 1976 (for the seven San Clemente animals). All comments received prior to February 28, 1977, were considered.

COMMENTS ON PROPOSED RULEMAKING FOR SEVEN ANIMALS

(41 FR 22073-22075): Letters from 14 persons were received as follows:

California State Department of Fish and Game (responding for Governor Brown), California State Department of Food and Agriculture, U.S. Navy, U.S. National Park Service, Sierra Club, Audubon Naturalist Society, Environmental Defense Fund, Pt. Reyes Bird Observatory, Dr. Dennis M. Power (Santa Barbara Natural History Museum), Dr. Philip J. Regal (University of Minnesota), Dr. H. Lee Jones (University of California, Los Angeles), Dr. Ned K. Johnson (University of California, Berkeley), Dr. Robert L. Bezy (Natural History Museum of Los Angeles County), and Mr. Robert R. Talmadge (Eureka, California).

None of the letters argued against the proposal in its entirety, and most were in favor of the proposal. Several letters were factual, but non-committal, and two presented evidence favoring the determination of some species and against the determination of others.

The State of California, as represented by the Department of Fish and Game, recommended that the San Clemente

loggerhead shrike be listed as Endangered, and that none of the other six animals be listed as either Endangered or Threatened. This view supports recommendations of the U.S. Navy (see below) and presupposes that their goat removal program will be ultimately successful. The abundance of the San Clemente sage sparrow, the island night lizard, and three land snails, in concert with U.S. Navy and National Park Service resource management plans, was cited as the principal argument against their listing. The lack of any information indicative of present status was given as the chief factor for rejecting the San Clemente coenonychia beetle as a plausible candidate for listing.

The California Department of Food and Agriculture summarized knowledge of the San Clemente coenonychia beetle. They stated that at present there is inadequate knowledge of this beetle, and that field study will be required.

The U.S. Navy, as represented by the Naval Undersea Center, recommended that the San Clemente loggerhead shrike be listed as Endangered, but that the San Clemente sage sparrow, island night lizard and three land snails were not in present danger of extinction. Due to a lack of data, no opinion was expressed on the San Clemente coenonychia beetle. A detailed map of the distribution on the former six species was also provided. The Navy's recommendations were based on five considerations: (1) The current definition of Endangered species in the Act, (2) recent results of the Navy's Biological Assessment Program, (3) current ecological damage due to exotics: goats, pigs, and black-tailed deer, (4) the projected removal of these animals by April 1977; and (5) no consideration was given to potential threats, such as deliberate or chance introductions of exotic species. The status of the island night lizard on other islands was not taken into consideration. The letter ended by examining the potential threats to island endemics of accidental introductions.

The National Park Service recommended that designation of Critical Habitat for the island night lizard be deferred until the National Park Service is in a position to analyze interrelationships between the lizard and several candidate mollusks and plants which also occur on Santa Barbara Island, a component of the Channel Islands National Monument. Mr. Cook made no recommendation with regard to the proposed determination of island night lizard. Critical Habitat for the island night lizard has not been proposed.

Dr. Philip J. Regal, University of Minnesota, in his letter dated September 28, 1976, pointed to recent extinctions of some life forms which were unique to San Clemente Island, and emphasized that island-adapted species are particularly prone to depredations from accidentally or intentionally introduced exotic competitors. Dr. Regal went on to emphasize the uniqueness of the island night lizard, and called attention to its vulnerability to potential introductions.

Dr. Robert L. Bezy, Natural History Museum of Los Angeles County, in a lengthy letter dated July 21, 1976, gave detailed information and comments on the proposed determination of the island night lizard. Although Dr. Bezy does not directly state whether or not he feels the species is Endangered or not, he presents a wealth of field information concerning this species. On San Clemente Island he found the lizard widespread and abundant, but stated that feral goats could seriously impact its habitat through their devegetating actions, since the island night lizard is known to be at least partially herbivorous. The introduced feral pigs and cats on the island undoubtedly feed on the lizards to some degree. On San Nicolas Island, Dr. Bezy found the island night lizard restricted, but locally common. Unfortunately, the alligator lizard (*Gerrhonotus multicarinatus*) has been found on San Nicolas Island in recent years, and Dr. Bezy feels it may be a competitive threat to the island night lizard population there. On tiny Santa Barbara Island, Dr. Bezy found the lizard's habitat limited, and the species moderately abundant at only one locality. In addition, Dr. Bezy presented data on litter size and reproductive rate which indicates a long life and slow replacement. His studies have also shown moderate morphological differentiation between the three populations.

Dr. H. Lee Jones, University of California at Los Angeles, in a letter dated September 27, 1976, commented on the current status of the San Clemente loggerhead shrike and the San Clemente sage sparrow. Dr. Jones, who had conducted intensive field studies of San Clemente Island's avifauna, stated that the San Clemente sage sparrow currently numbers between 200 to 400 pairs, while the San Clemente loggerhead shrike numbers no more than 25 pairs—down from 50-75 pairs in 1973. He feels the most serious threat to the shrike is destruction of brush by goats, and that it is in danger of extinction.

Dr. Dennis M. Power, Santa Barbara Natural History Museum, who has studied Channel Island birds, feels both the shrike and sparrow to be worthy of protection.

Dr. Ned K. Johnson, University of California, Berkeley, in a letter dated August 3, 1976, who has conducted research on the California Channel Islands, stated that the San Clemente loggerhead shrike and San Clemente sage sparrow should be both listed as Endangered, and that "every effort should be made to restore their mammal-destroyed habitats."

Dr. Robert M. Stewart, Pt. Reyes Bird Observatory, provided maps showing what he felt were Critical Habitats for the San Clemente sage sparrow and San Clemente loggerhead shrike.

All three conservation organizations and one individual fully supported the proposal, but made no substantive comments.

COMMENTS ON PROPOSED RULEMAKING FOR 1700 PLANTS

(41 FR 24523-24572): The general comments to this proposed rulemaking

will be summarized in the FEDERAL REGISTER with the next listing of plants.

At this time only comments from the State of California and one botanist, who commented specifically on the present status of San Clemente Island plant candidates, are considered.

The California Department of Fish and Game, in a letter dated October 15, 1976, responded to the June 16, 1976, plant proposal on behalf of Governor Brown. They stated that the State did not have the opportunity to adequately assess those taxa proposed, since the Smithsonian Institution did not disclose the information which led to their inclusion in the January 9, 1975, Smithsonian report on Endangered and Threatened U.S. plants. The State went on to express strong opposition to Federal "listing of Endangered species without making available to the States the substantiating data supporting such action." A list of California plants was appended to the letter which contained taxa determined by the California Native Plant Society to be Threatened rather than Endangered, as well as two plant taxa which satisfy neither category. No San Clemente Island plants were mentioned in the letter or the appended list.

Mr. R. Mitchel Beauchamp of National City, California, in a letter dated October 9, 1975 (prior to the proposal), commented upon the status of 23 plants native to San Clemente Island, including the four finally determined herein. *Lotus scoparius* ssp. *traskiae* is located near the cantonment area (Wilson Cove) so there may be some threat. *Malacothamnus clementinus* is now known from two widely separated localities (Lemon Tank dump and lower China Canyon). *Delphinium kinkiense* is uncommon in grasslands in spring. *Castilleja grisea* is infrequent on cliffs.

CONCLUSION

San Clemente loggerhead shrike. All persons who commented on this bird's status felt it should be determined as Endangered as was proposed.

San Clemente sage sparrow. This species was proposed as Endangered. Of those who made substantive comments on its status, the State of California and the U.S. Navy's stand that the species should not be listed at all due to the existence of a management plan and an active goat removal program is rejected, since there still exists a threat which will remain until all goats are removed from the island and the sparrow's habitat begins to recover. The view that the species be determined as Endangered (as proposed) must also be rejected, since the current population of 200-400 pairs is not likely to become extinct in the foreseeable future.

Island night lizard. The view of the State of California and the U.S. Navy that this species be determined as neither Endangered nor Threatened due to the animal's abundance on San Clemente Island and the existence of Management Plans for San Clemente Island and Santa Barbara Islands is rejected, since the species has small populations on two of the three islands where it occurs, and the

species faces a newly introduced competitor on one of those islands. In addition, the evidence that three populations are genetically divergent indicates that the species long-term survival would be enhanced by the short-term continuance of all its populations. The view that the species be determined to be Endangered (as proposed) is also rejected, since the large population on San Clemente Island is not likely to become extinct in the foreseeable future.

Land snails. The view of the State of California and the U.S. Navy that the wreathed island snail, horseshoe snail, and Gabb's snail be determined as neither Endangered nor Threatened is accepted, since population levels of all three are very high and no threat to their continued survival can be demonstrated. The view that the snails be determined as Endangered (as proposed) is rejected, and these animals should no longer be considered as candidates for determination—unless a new threat to their survival is demonstrated.

San Clemente Coenonychia beetle. The view of the U.S. Navy and the State of California that this insect be determined as neither Endangered nor Threatened due to a lack of status information is accepted. The comments that the species be determined to be Endangered, none of which contained supporting data, is rejected. Although not finally determined at this time, the San Clemente Coenonychia beetle remains proposed until such time that an appropriate status survey has been conducted. At that time a decision will be made with regard to final determination.

San Clemente Island plants. The State of California's view that no California plants be determined under Federal law since the substantiating data was not made available to them is not accepted for the four San Clemente Island plants included herein, since the data upon which these plants were proposed is available in files of the California Native Plant Society, and the scientific literature.

After a thorough review and consideration of all the information available, the Director has determined that the San Clemente loggerhead shrike, San Clemente broom, San Clemente bushmallow, San Clemente Island larkspur and San Clemente Island indian paintbrush are in danger of extinction throughout all or a significant portion of their ranges and that the island night lizard and San Clemente sage sparrow are not Endangered, but Threatened as defined in Section 3 of the Act. Section 4(a) of the Act states that a species may be determined to be endangered or threatened because of any five factors. This review amplifies and substantiates the description of those factors included in the proposed rulemakings.

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The habitat or range of all species herein determined, as they occur on San Clemente Island, is presently being modified by the browsing effect of feral goats, and the rooting of feral pigs. The recommendations of the

State of California and the U.S. Navy, as regarded the proposals of these species, were in large part dependent upon the eventual removal of all feral goats from San Clemente Island. At present the Navy's goat removal program is inactive. On Santa Barbara and San Nicolas Islands, the habitats of the island night lizard are already reduced and any future reduction would seriously imperil the lizard's populations which occur there.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable to any species determined herein.

3. *Disease or predation.* In the proposal of the San Clemente loggerhead shrike, San Clemente sage sparrow, and island night lizard depredation by feral housecats on San Clemente Island was cited as probable factor affecting the populations of these animals. No direct evidence was received that the two birds have suffered from their coexistence with a large feral cat population, but the threat remains. Evidence was received that the feral cats feed on island night lizards, but whether this action is a serious factor remains unknown. It is now known that alligator lizard (*Gerrhonotus multicarinatus*) has been accidentally introduced to San Nicolas Island. This predaceous lizard may constitute a serious threat to the continued existence of the island night lizard on San Nicolas Island.

The grazing of feral goats and rooting of feral pigs must be viewed as a serious threat to the continued existence of the four Endangered San Clemente Island plants.

4. *The inadequacy of existing regulatory mechanisms.* Not applicable to any species determined herein.

5. *Other natural or manmade factors affecting their continued existence.* In the proposal of the animals, it was stated that island-adapted taxa are often detrimentally affected by accidental or intentional introduction of non-native species. On all California Channel Islands, such past introductions have had disastrous effects and that the potential of future introductions is serious is reflected by the comments of one biologist and the U.S. Navy. Competition by plants not native to San Clemente Island with the four Endangered plants herein determined must be viewed as a serious threat to their continued existence.

EFFECTS OF THE RULEMAKING

The effects of this determination and this rulemaking include, but are not necessarily limited to those discussed below. Permit regulations for plants were in the June 24, 1977, FEDERAL REGISTER (42 FR 32373-32381). No special regulations, as provided for by Section 4(d) of the Act in the case of Threatened species, are deemed necessary or advisable for the protection of the island night lizard or the San Clemente sage sparrow. The general prohibitions and exceptions concerning the Threatened species are published in Title 50 § 17.31, of the Code of Federal Regulations which is reprinted in part as follows:

Subpart D—Threatened Wildlife

§ 17.31 Prohibitions.

(a) Except as provided in Subpart A of this Part, or in a permit issued under this Subpart, all of the provisions in § 17.21 (a) through (c) (4) shall apply to threatened wildlife.

(b) In addition to any other provisions of this Part 17; any employee or agent of the Service, of the National Marine Fisheries Service, or of a State conservation agency which is operating a conservation program pursuant to the terms of a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take any threatened wildlife to carry out scientific research or conservation programs.

(c) Whenever a special rule in §§ 17.40 to 17.48 applies to a threatened species, none of the provisions of paragraphs (a) and (b) of this section will apply. The special rule will contain all the applicable prohibitions and exceptions.

The above regulations refer to § 17.21 of Title 50 which is reprinted below.

Subpart C—Endangered Wildlife

§ 17.21 Prohibitions.

(a) Except as provided in Subpart A of this part, or under permits issued pursuant to § 17.22 or § 17.23, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit or cause to be committed, any of the acts described in paragraphs (b) through (f) of this section in regard to any endangered wildlife.

(b) *Import or export.* It is unlawful to import or to export any endangered wildlife. Any shipment in transit through the United States is an importation and an exportation, whether or not it has entered the country for customs purposes.

(c) *Take.* (1) It is unlawful to take endangered wildlife within the United States, within the territorial sea of the United States, or upon the high seas. The high seas shall be all waters seaward of the territorial sea of the United States, except waters officially recognized by the United States as the territorial sea of another country, under international law.

(2) Notwithstanding paragraph (c) (1) of this section, any person may take endangered wildlife in defense of his own life or the lives of others.

(3) Notwithstanding paragraph (c) (1) of this section, any employee or agent of the Service, any other Federal land management agency, the National Marine Fisheries Service, or a State conservation agency, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take endangered wildlife without a permit if such action is necessary to:

- (i) Aid a sick, injured or orphaned specimen; or
- (ii) Dispose of a dead specimen; or

(iii) Salvage a dead specimen which may be useful for scientific study; or

(iv) Remove specimens which constitute a demonstrable but nonimmediate threat to human safety, provided that the taking is done in a humane manner; the taking may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live-capturing and releasing the specimen unharmed, in a remote area.

(4) Any taking pursuant to paragraphs (c) (2) and (3) of this section must be reported in writing to the United States Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, within 5 days. The specimen may only be retained, disposed of, or salvaged in accordance with directions from the Service.

"(5) Notwithstanding paragraph (c) (1) of this section, any qualified employee or agent of a State Conservation Agency which is a party to a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take Endangered Species, for conservation programs in accordance with the Cooperative Agreement, provided that such taking is not reasonably anticipated to result in: (i) the death or permanent disabling of the specimen; (ii) the removal of the specimen from the State where the taking occurred; (iii) the introduction of the specimen so taken, or of any progeny derived from such a specimen, into an area beyond the historical range of the species; or (iv) the holding of the specimen in captivity for a period of more than 45 consecutive days."

(d) *Possession and other acts with unlawfully taken wildlife.* (1) It is unlawful to possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any endangered wildlife which was taken in violation of paragraph (c) of this section.

Example. A person captures a whooping crane in Texas and gives it to a second person, who puts it in a closed van and drives thirty miles, to another location in Texas. The second person then gives the whooping crane to a third person, who is apprehended with the bird in his possession. All three have violated the law—the first by illegally taking the whooping crane; the second by transporting an illegally taken whooping crane; and the third by possessing an illegally taken whooping crane.

(2) Notwithstanding paragraph (d) (1) of this section, Federal and State law enforcement officers may possess, deliver, carry, transport or ship any endangered wildlife taken in violation of the Act as necessary in performing their official duties.

(e) *Interstate or foreign commerce.* It is unlawful to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any endangered wildlife.

(f) *Sale or offer for sale.* (1) It is unlawful to sell or to offer for sale in interstate or foreign commerce any endangered wildlife.

(2) An advertisement for the sale of endangered wildlife which carries a warning to the effect that no sale may be consummated until a permit has been obtained from the U.S. Fish and Wildlife Service shall not be considered an offer for sale within the meaning of this subsection.

EFFECT ON FEDERAL AGENCIES

The determination set forth in this rulemaking makes these species eligible for the provisions of Section 7 of the Act which reads as follows:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of conservation of endangered species and threatened species listed pursuant to Section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not

jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

Although no Critical Habitat yet has been determined for these species, the other provisions of Section 7 are applicable. The Service now is collecting data relative to preparing a proposed determination of Critical Habitat for some of these species, and all persons with pertinent information are invited to send the same to the Director.

NATIONAL ENVIRONMENTAL POLICY ACT

Two environmental assessments have been prepared and are on file in the Service's Washington Office of Endangered Species. They address this action as it involves the seven Channel Island species. These assessments are the basis for a decision that this determination is not a major Federal action which would sig-

nificantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

This final rulemaking is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531-1543; 87 Stat. 884), and was prepared by Dr. Paul A. Opler, Office of Endangered Species (202/343-7814).

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: May 27, 1977.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

Accordingly, Part 17, Subpart B, § 17.11 and § 17.12, Title 50 of the Code of Federal Regulations, are amended as set forth below:

In § 17.11 add the following:

§ 17.11 Endangered and threatened wildlife.

Species		Population	Range		Status	When listed	Special rules
Common name	Scientific name		Known distribution	Portion of range where threatened or endangered			
Shrike, San Clemente loggerhead.....	<i>Lanius ludovicianus mearnsi</i>	NA	U.S.A. (California).....	Entire.....	E	26	NA
Sparrow, San Clemente sage.....	<i>Amphispiza belli clementis</i>	NA	do.....	do.....	T	26	NA
Lizard, island night.....	<i>Klauberina riveraiana</i>	NA	do.....	do.....	T	26	NA

§ 17.12 Endangered and threatened plants.

In § 17.12 initiate a new list with the following:

Species		Known distribution	Range		Status	When listed	Special rules
Scientific name	Common name		Known distribution	Portion of range where threatened or endangered			
Fabaceae, Pea family: <i>Lotus scoparius</i> ssp. <i>traskiae</i>	San Clemente Broom.....	U.S.A. (California).....	Entire.....	do.....	E	26	NA
Malvaceae, Mallow family: <i>Malacothamnus clementinus</i>	San Clemente Island Bushmallow.....	do.....	do.....	do.....	E	26	NA
Ranunculaceae, Buttercup family: <i>Delphinium kintense</i>	San Clemente Island Larkspur.....	do.....	do.....	do.....	E	26	NA
Scrophulariaceae, Snapdragon family: <i>Cassilaja grisea</i>	San Clemente Island Indian Paintbrush.....	do.....	do.....	do.....	E	26	NA

[FR Doc.77-23094 Filed 8-10-77;8:45 am]

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Determination of Critical Habitat for Six Endangered Species

AGENCY: U.S. Fish and Wildlife Service.

ACTION: Final rulemaking.

SUMMARY: The Director, U.S. Fish and Wildlife Service (hereinafter, the Director and the Service, respectively) hereby issues a rulemaking which determines Critical Habitat for the Florida Everglade kite (*Rostrhamus sociabilis plumbeus*), American peregrine falcon (*Falco peregrinus anatum*), palila (*Psittirostra baileyi*), dusky seaside sparrow (*Ammodramus maritima nigrescens*), Cape Sable sparrow (*Ammodramus maritima mirabilis*), and Morro Bay kangaroo rat (*Dipodomys heermanni morroensis*). This rulemaking is issued pursuant to Section

7 of the Endangered Species Act of 1973 (16 U.S.C. 1531-1543; 87 Stat. 884; hereinafter the Act). In accordance with Section 7, all Federal agencies will be required to insure that actions authorized, funded, or carried out by them do not adversely affect these Critical Habitats.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

SUPPLEMENTARY INFORMATION:

BACKGROUND

In the FEDERAL REGISTER of July 14, 1976 (41 FR 28978-28979), the Service proposed the determination of Critical

Habitat for the Endangered Cape Sable sparrow, a small bird of southern Florida. In the FEDERAL REGISTER of August 30, 1976 (41 FR 35616-35618), the Service proposed the determination of Critical Habitat for the Endangered American peregrine falcon, in a portion of its range in northern California, and for the Endangered Morro Bay kangaroo rat, a small rodent found along part of the California coast. In the FEDERAL REGISTER of December 3, 1976 (41 FR 53074-53075), the Service proposed the determination of Critical Habitat for two Endangered Florida birds, the Florida Everglade kite and dusky seaside sparrow. In the FEDERAL REGISTER of December 22, 1976 (41 FR 55729-55732), the Service proposed the determination of Critical Habitat for the Endangered palila, a small bird of the Hawaiian Honeycreeper Family.